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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

GRACE E. LA,  
Plaintiff,  
v.  
ANDRA LEONARD ALLEN;  
FOREVER DIAMONDS, a business entity of  
unknown origin, and DOES 1 through 50,  
inclusive,  
Defendants.

) Case No.: 08 CV 0532WQH WMc  
)  
) **REPLY TO PLAINTIFF'S  
EVIDENTIARY OBJECTIONS**  
)  
) DATE: August 11, 2008  
) TIME: 11:00 A.M.  
) DEPT: 4  
) JUDGE: Honorable William Q. Hayes  
)  
)

Defendant, Andra Allen dba Forever Diamonds (“Defendant”), replies to Plaintiff’s Objections to Evidence In Support of Opposition to Motion to Dismiss for lack of Venue, or in the Alternative Transfer Venue and Motion to Dismiss for Failure to State a Claim.

Notably, Plaintiff fails to object to the three exhibits and Request for Judicial Notice by Defendant such that the documentary evidence submitted by Defendant is admissible. With regard to Plaintiff's remaining objections, Defendant finds her objections baseless as shown below:

Motion 1:21-22; Decl. Allen, 2:1-2: These statements are used to establish proper venue and should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*, S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996).

Motion 1:22-23: These statements are used to establish proper venue and should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano, S.A.*, 87 F.3d

1 320,324 (9<sup>th</sup> Cir. 1996). These statements have foundation since Allen is the owner and dba to  
 2 Forever Diamonds. Similarly, these statements are relevant since they assist in establishing venue.

3 Motion 1:23-24; Decl. Allen 2:2-3: These statements are used to establish proper venue and  
 4 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*,  
 5 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). These statements have foundation since Allen is the owner and  
 6 dba to Forever Diamonds. Similarly, these statements are relevant since they assist in establishing  
 7 venue.

8 Motion 1:24-25; Decl. Allen 2:3-5: These statements are used to establish proper venue and  
 9 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*,  
 10 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). These statements have foundation since Allen is the owner and  
 11 dba to Forever Diamonds. Similarly, these statements are relevant since they assist in establishing  
 12 venue.

13 Motion 1:25-26; Decl. Allen 2:13-14: These statements are used to establish proper venue and  
 14 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*,  
 15 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). These statements have foundation since Allen is the owner and  
 16 dba to Forever Diamonds. Similarly, these statements are relevant since they assist in establishing  
 17 venue.

18 Motion 2:1-3; Decl. Allen 2:15-18: These statements are used to establish proper venue and  
 19 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*,  
 20 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). These statements have foundation since Allen is the owner and  
 21 dba to Forever Diamonds. Similarly, these statements are relevant since they assist in establishing  
 22 venue.

23 Motion 2:3-7; Decl. Allen 2:19-21: These statements are used to establish proper venue and  
 24 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*,  
 25 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). Moreover, these statements are not hearsay because they do not  
 26 seek to prove the truth of the matter asserted. Instead, it establishes a basis for the parties' relationship  
 27 and thus falls outside the hearsay rule. FRE 801(c). These statements have foundation since Allen  
 28 was a participant in Plaintiff's relationship with Allen. Similarly, these statements are relevant since

1 they assist in establishing venue.

2 Motion 2:8-9; Decl. Allen 3:4-5: These statements are used to establish proper venue and  
 3 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*,  
 4 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). Moreover, these statements are not hearsay because they do not  
 5 seek to prove the truth of the matter asserted. Instead, it establishes a basis for the parties' relationship  
 6 and thus falls outside the hearsay rule. FRE 801(c). This statement is relevant in establishing venue to  
 7 show that Defendant was in Texas at the time the parties' relationship broke off and Plaintiff  
 8 demanded a return of her money.

9 Motion 2:12-14; Decl. Allen 3:10-13: These statements are used to establish proper venue and  
 10 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*,  
 11 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). Moreover, these statements are not hearsay because they do not  
 12 seek to prove the truth of the matter asserted. Instead, it establishes a basis for Plaintiff's alleged  
 13 investment and thus falls outside the hearsay rule. FRE 801(c). This statement is relevant in that it  
 14 assists in establishing that Plaintiff's claims were entirely grounded in venue other then the Southern  
 15 District.

16 Motion 2:14-15: These statements are used to establish proper venue and should be admitted  
 17 for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*, S.A., 87 F.3d  
 18 320,324 (9<sup>th</sup> Cir. 1996).

19 Motion 2:15-16; Decl. Allen 3:14-16: These statements are used to establish proper venue and  
 20 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*,  
 21 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). Moreover, these statements are not hearsay because they do not  
 22 seek to prove the truth of the matter asserted. Instead, it establishes a basis for the parties' relationship  
 23 and thus falls outside the hearsay rule. FRE 801(c).

24 Motion 2:16-17; Decl. Allen 3:16-17: These statements are used to establish proper venue and  
 25 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano*,  
 26 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). Moreover, these statements are not hearsay because they do not  
 27 seek to prove the truth of the matter asserted. Instead, it establishes a basis for Plaintiff's alleged  
 28 investment and thus falls outside the hearsay rule. FRE 801(c). This statement is relevant in that it

1 assists in establishing that Plaintiff's claims were entirely grounded in venue other then the Southern  
 2 District.

3 Motion 2:20; Decl. Allen 3:22: These statements are used to establish proper venue and should  
 4 be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano, S.A.*, 87  
 5 F.3d 320,324 (9<sup>th</sup> Cir. 1996). ).

6 Motion 2:20-22; Decl. Allen 3:22-24: These statements are used to establish proper venue and  
 7 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano,*  
 8 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). Moreover, these statements are not hearsay because they do not  
 9 seek to prove the truth of the matter asserted. Instead, it establishes a basis for Plaintiff's alleged  
 10 investment and thus falls outside the hearsay rule. FRE 801(c). This statement has foundation since  
 11 Allen is the owner and dba to Forever Diamonds.

12 Motion 2:22: These statements are used to establish proper venue and should be admitted for  
 13 purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano, S.A.*, 87 F.3d 320,324  
 14 (9<sup>th</sup> Cir. 1996). This statement has foundation since Allen is the owner and dba to Forever Diamonds  
 15 such that he has knowledge as to how many times, if any, Plaintiff purchased securities in Forever  
 16 Diamonds.

17 Motion 22:23-24; Decl. Allen27-28: These statements are used to establish proper venue and  
 18 should be admitted for purposes of determining venue. FRCP 12(b)(3); *Argueta v. Banco Maxicano,*  
 19 S.A., 87 F.3d 320,324 (9<sup>th</sup> Cir. 1996). Moreover, these statements are not hearsay because they do not  
 20 seek to prove the truth of the matter asserted. Instead, it establishes a lack of venue in the Southern  
 21 District and thus falls outside the hearsay rule. FRE 801(c). This statement has foundation since  
 22 Plaintiff informed Allen that she was moving to San Diego.

23  
 24 Dated: August 4, 2008

Respectfully Submitted,

25  
 26 Timothy P. Dillon, Esq.  
 27 E-mail: [tdillon@dillongerardi.com](mailto:tdillon@dillongerardi.com)  
 28 Attorney for Defendants, Andra Allen  
 and Forever Diamonds